



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

PRIDE
5701 MAPLE AVENUE SUITE #100
DALLAS TX 75235

DWC Claim #:
Injured Employee:
Date of Injury:
Employer Name:
Insurance Carrier #:

Respondent Name

ZURICH AMERICAN INSURANCE CO

Carrier's Austin Representative Box

Box Number 19

MFDR Tracking Number

M4-11-2673-01

MFDR Date Received

April 6, 2011

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Per the explanation of benefits from Comp MC they processed the claim, however the payment is not correct based on the MAR and their explanation of benefits indicates the rational [sic] 45-'charges exceed your contracted / legislated fee arrangement, and rational [sic] 168-'billed charge is greater than maximum unit value or daily maximum allowance for physical therapy/physical medicine. At this time we are seeking full reimbursement for the outstanding balance of \$2832.15 along with any interest accrual..."

Amount in Dispute: \$2832.13

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary from a letter dated April 21, 2011: "The carrier submits that all fee reductions were made in accordance with the applicable fee guidelines. For the March 30, 2010 and April 1, 2010 dates of service, the carrier would note that the Medical Review Division does not have jurisdiction to review these dates of service because medical dispute resolution was not timely sought. The carrier submits that the billed charges exceed what is outlined in the applicable fee guidelines."

Respondent's Supplemental Response from a letter dated December 5, 2011: "Carrier has previously responded to this dispute on 04/21/2011. The carrier has received the request for documentation regarding when notice was given to the requestor regarding a voluntary network. The carrier will provide this documentation as soon as possible. Carrier maintains its position as outlined in the original response."

Response Submitted by: Flahive, Ogden & Latson; 504 Lavaca, Suite 1000; Austin TX 78701

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
March 30, 2010 and April 1, 2010	97530-GO	\$525.34	\$0.00
April 6, 2010 April 8, 2010	97530-GO x 12 units x 2 days	\$525.34	\$525.34
April 20, 2010	97530-GO x 12 units	\$262.67	\$262.67

May 11, 2010	97530-GO x 10 units	\$191.01	\$191.01
May 20, 2010 May 27, 2010	97530-GO x 12 units x 2 days	\$525.34	\$525.34
June 1, 2010	97530-GO x 8 units	\$119.35	\$119.35
June 2, 2010	97530-GO x 10 units	\$181.71	\$181.71
July 6, 2010 July 8, 2010	97530-GO x 10 units x 2 days	\$382.02	\$382.02
July 13, 2010	97530-GO x 8 units	\$119.35	\$119.35
			\$2306.79

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 8 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §134.203 sets out medical fee guidelines for workers compensation medical services provided on or after March 1, 2008.
3. 28 Texas Administrative Code §134.600 effective May 2, 2006 sets out the preauthorization requirements for specific treatments and services.
4. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits dated June 2, 3, 2010

- 45 – charges exceed your contracted/legislated fee arrangement
- 168 – billed charge is greater than maximum unit value or daily maximum allowance for physical therapy/physical medicine services
- 119 – benefit maximum for this time period or occurrence has been reached
- 306 – billing is a duplicate of other services performed on same day
- 18 – duplicate claim service

Explanation of benefits dated July 6, 14, 2010

- 45 – charges exceed your contracted/legislated fee arrangement
- 168 – billed charge is greater than maximum unit value or daily maximum allowance for physical therapy/physical medicine services
- 119 – benefit maximum for this time period or occurrence has been reached

Explanation of benefits dated August 19, 2010

- 45 – charges exceed your contracted/legislated fee arrangement
- 119 - benefit maximum for this time period or occurrence has been reached
- 168 – billed charge is greater than maximum unit value or daily maximum allowance

PPO reduction: First Health P&T any network reduction is in accordance with the Focus/Aetna workers comp access LLC contract.

Re-evaluation explanation of benefits dated September 7, 2010

- 1014 – The attached billing has been re-evaluated at the request of the provider. Based on this re-evaluation, we find our original review to be correct. Therefore, no additional allowance appears to be warranted.
- 119 - benefit maximum for this time period or occurrence has been reached
- 168 - billed charge is greater than maximum unit value or daily maximum allowance for physical therapy/physical medicine services
- B12 – services not documented in patients' medical records

Explanation of benefits dated April 8, 2011

- 18 – duplicate claim/service
- 1014 – The attached billing has been re-evaluated at the request of the provider. Based on this re-evaluation, we find our original review to be correct. Therefore, no additional allowance appears to be warranted.
- 119 - benefit maximum for this time period or occurrence has been reached
- 168 - billed charge is greater than maximum unit value or daily maximum allowance for physical therapy/physical medicine services
- 247 – a payment or denial has already been recommended for this service
- PPO reduction: First Health P&T

Issues

1. Did the requestor waive the right to medical fee dispute resolution for dates of service March 30, 2010 and April 1, 2010?
2. Was the carrier entitled to pay pursuant to an informal/voluntary network contracted rate?
3. Did the respondent support its denial reason of “119 – internal neurolysis not identified in the operative report” for date of service June 2, 2010?
4. Did the respondent support its denial reason of “B12 – services not documented in patients’ medical records” billed on June 2, 2010?
5. Did the respondent support its denial reasons of “119 - benefit maximum for this time period or occurrence has been reached” and “168 - billed charge is greater than maximum unit value or daily maximum allowance for physical therapy/physical medicine services”?
6. Is the requestor entitled to reimbursement?

Findings

1. 28 Texas Administrative Code §133.307(c)(1) states: "Timeliness. A requestor shall timely file with the Division's MDR Section or waive the right to MDR. The Division shall deem a request to be filed on the date the MDR Section receives the request. (A) A request for medical fee dispute resolution that does not involve issues identified in subparagraph (B) of this paragraph shall be filed no later than one year after the date(s) of service in dispute." Two of the dates of service in dispute are March 30, 2010 and April 1, 2010. The request for medical dispute resolution was received in the Medical Dispute Resolution (MDR) section on April 6, 2011. This date is later than one year after these two disputed dates of service. Review of the submitted documentation finds that these two disputed dates of service do not involve issues identified in §133.307, subparagraph (B). The Division concludes that the requestor has failed to timely file these two disputed dates of service with the Division's MDR Section; consequently, the requestor has waived the right to medical fee dispute resolution for March 30, 2010 and April 1, 2010.
2. According to the explanation of benefits, the respondent denied reimbursement based upon “ANSI 45”. Former Texas Labor Code §413.011(d-1) states, in pertinent part, that “...an insurance carrier may pay fees to a health care provider that are inconsistent with the fee guidelines adopted by the Division if the insurance carrier...has a contract with the health care provider and that contract includes a specific fee schedule...” Furthermore, former §413.011(d-2) requires that “An informal or voluntary network, or the carrier or the carrier’s authorized agent, as appropriate, shall notify each health care provider of any person that is given access to the network’s fee arrangements with that health care provider within the time and according to the manner provided by commissioner rule.” On September 21, 2011 the Division requested additional information. Specifically, medical fee dispute resolution requested documentation to support that PRIDE was notified in accordance with commissioner rule 28 Texas Administrative Code §133.4 titled *Written Notification to Health Care Providers of Contractual Agreements for Informal and Voluntary Networks*.
The respondent’s supplemental response dated December 5, 2011 states in part, “The carrier has received the request for documentation regarding when notice was given to the requestor regarding a voluntary network. The carrier will provide this documentation as soon as possible.” The Division has not received the requested documentation as of the under signed date. The Division concludes that the respondent did not meet all the requirements of rule §133.4. Consequently, pursuant to rule §133.4, the insurance carrier is not entitled to pay a health care provider at a contracted fee for the services in dispute. The disputed services will be reviewed in accordance with the applicable Division fee guidelines.
3. The requestor billed for therapeutic activities, CPT code 97530 which is defined as “therapeutic activities, direct (one-on-one) patient contact by the provider (use of dynamic activities to improve functional performance), each 15 minutes. The respondent’s denial reason of “119 - internal neurolysis not identified in the operative report” is not supported.

4. The respondent denied services billed on June 2, 2010 as "B12 – services not documented in patients' medical records". The requestor submitted a daily note dated June 2, 2010 that sufficiently supports 10 units of billed services rendered. Respondent's denial reason is not supported.
5. The respondent denied services with denial reasons "119 - benefit maximum for this time period or occurrence has been reached" and "168 - billed charge is greater than maximum unit value or daily maximum allowance for physical therapy/physical medicine services." Former 28 Texas Administrative Code §134.600 effective May 2, 2006 states in part (n) "the carrier shall not condition an approval or change any elements of the request as listed in subsection (f) of this section, unless the condition or change is mutually agreed to by the health care provider and carrier and is documented."

The requestor submitted two preauthorization requests; one for 10 visits of CPT code 97530 at 12 units each and a subsequent preauthorization request for 8 visits of CPT code 97530 at 12 units each visit. The insurance carrier's utilization review department approved both requests as submitted. Therefore, the respondent's denial reasons of "119 - benefit maximum for this time period or occurrence has been reached" and "168 - billed charge is greater than maximum unit value or daily maximum allowance for physical therapy/physical medicine services" are not supported.

6. Recommend additional reimbursement in accordance with 28 Texas Administrative Code §134.203 as follows:
CPT code 97530 effective January 1, 2010:

- $\$54.32 \div \$36.0791 \times \$30.86 = \$46.46 \times 12 \text{ units} = \$557.55.$
- $\$54.32 \div \$36.0791 \times \$30.86 = \$46.46 \times 10 \text{ units} = \$464.62.$

CPT code 97530 effective June 1, 2010:

- $\$54.32 \div \$36.8729 \times \$31.54 = \$46.46 \times 8 \text{ units} = \$371.71.$
- $\$54.32 \div \$36.8729 \times \$31.54 = \$46.46 \times 10 \text{ units} = \$464.64.$
- The total maximum allowable reimbursement (MAR) for the eligible disputed services = \$5,389.63. The respondent paid \$1,849.49 for the eligible disputed services. The requestor is seeking \$2,306.79 for the eligible disputed services; therefore, this amount is recommended.

Conclusion

The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution, and the thorough review and consideration of that evidence. After thorough review and consideration of all the evidence presented by the parties to this dispute, the Division concludes that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$2,306.79.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$2,306.79 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

July , 2012
Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.